

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

VICKI ACKERMAN,

Plaintiff,

vs.

Case No. _____

L.C. Case No. 22-004197-NI

WAL-MART STORES, INC.,

Defendant.

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**DEFENDANT WAL-MART
STORES, INC.'S NOTICE OF REMOVAL**

NOW COMES, Defendant, WAL-MART STORES, INC. (“Defendant”), by and through its attorneys, ZAUSMER, P.C., and hereby removes this case from Wayne County Circuit Court, pursuant to 28 U.S.C. §§ 1441(a) and 1446(a), for the reason that diversity of citizenship exists between the Plaintiff, VICKI ACKERMAN (“Plaintiff”), a citizen and resident of the City of Livonia, County of Wayne and in the State of Michigan, and Defendant, WAL-MART STORES,

INC., organized under the laws of the State of Delaware with its principal place of business in Bentonville, Arkansas. (See Paragraph One of Plaintiff's Complaint, attached as **Exhibit "A"**.) Defendant has properly served its Notice of Removal on Plaintiff. In support of its removal of this action, the Defendant states the following:

1. This action is pending in the Wayne County Circuit Court in the State of Michigan. The Complaint was filed with the Circuit Court on or around April 8, 2022. (See Plaintiff's Complaint, attached as **Exhibit "A"**.)

2. Defendant, WAL-MART STORES, INC., was served with Plaintiff's Summons and Complaint by Certified Mail on May 2, 2022. (See Service of Process Transmittal Form, attached as **Exhibit "B"**.)

3. This Notice of Removal is filed within thirty (30) days after the Defendant was served with the Summons and Complaint, in compliance with 28 U.S.C. § 1446(b). Pursuant to 28 U.S.C. § 1446(a), a copy of the Complaint is attached as **Exhibit "A"**.

4. This Court has jurisdiction over this action, pursuant to 28 U.S.C. §1332. Jurisdiction exists because the parties are respectively citizens of different states and the amount in controversy alleged in the Complaint, exclusive of costs, allegedly exceeds Seventy-Five Thousand and 00/100 (\$75,000.00) Dollars.

- A. Based on the allegations in the Complaint, Plaintiff is a citizen of the County of Wayne, State of Michigan. (See Plaintiff's Complaint at Paragraph One, attached as **Exhibit "A"**.)
- B. Defendant, WALMART INC., formerly known as Wal-Mart Stores, Inc., a Delaware corporation, is a publicly traded company with shares listed and traded on the New York Stock Exchange under the symbol WMT. The principal place of business is Bentonville, Arkansas. No publicly traded entity owns more than 10% of the company. WALMART INC. is not a citizen of the State of Michigan.
- C. Further, according to the allegations in Plaintiff's Complaint, the amount in controversy, exclusive of interest and costs, is in excess of Seventy-Five Thousand and 00/100 (\$75,000.00) Dollars. Specifically, Plaintiff alleges, *inter alia*, in her Complaint, that she sustained serious and disabling injuries, including, but not limited to:
 - i. Injuries to the head, neck, back and shoulders;
 - ii. Injuries to upper and lower extremities;
 - iii. Physical pain and suffering (past and future);
 - iv. Disability and permanent scarring and disfigurement;
 - v. Mental anguish (past and future);
 - vi. Fright and shock;
 - vii. Denial of social pleasures and enjoyment of the usual activities of life;
 - viii. Embarrassment, humiliation and mortification; and
 - ix. Medical expenses (past and future).

(See Plaintiff's Complaint at Paragraph 17, including subparagraphs (a.) through (i.), attached as **Exhibit "A"**.)

D. Additionally, Defendant has requested that Plaintiff cap her alleged damages claim at Seventy-Five Thousand and 00/100 (\$75,000.00) Dollars or less. (See Correspondence to Plaintiff's Attorney, dated May 6, 2022, attached as **Exhibit "C"**.) However, to date, Plaintiff has declined to cap her alleged damages claim because she believes, at this juncture, her alleged damages are in excess of Seventy-Five Thousand and 00/100 (\$75,000.00) Dollars.

5. For purposes of diversity of jurisdiction, a corporation is a citizen of "any State by which it has been incorporated and of the State where it has its principal place of business ..." *Delphi Automotive Systems, LLC v. Segway Inc.*, 519 F.Supp.2d 662, 665 (E.D. Mich. 2007).

6. In view of the above, there is complete diversity of citizenship between the parties.

7. Accordingly, based on the information known to date, this action may be removed from State Court to Federal Court, pursuant to 27 U.S.C. §§ 1332 and 1446(b). Defendant will file a copy of this Notice of Removal with the Clerk of the Wayne County Circuit Court in the State of Michigan. Further, Defendant will serve copies of this Notice on Counsel of record for Plaintiff.

Respectfully Submitted,

ZAUSMER, P.C.

/s/ Nicole M. Wright

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Dated: May 31, 2022

CERTIFICATE OF SERVICE

I hereby certify that on **May 31, 2022**, I electronically filed the foregoing paper with the Clerk of the Court, using the ECF system and copies of such documents were served upon the following individuals by U.S. Mail:

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/s/ Nicole M. Wright

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